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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/517,526
Filing Date: December 13, 2004
Appellant(s): SAUNIERE, JEAN

Robert A. Madsen (58,543)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/06/2008 appealing from the Office action mailed 09/06/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

It is noted that claims 42-62 and 83-89 stand or fall together. Even though this statement is made in applicant's arguments section, applicant's intentions are clear in this instance.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Art Unit: 1791

4,191,743	Klemm et al	3-1980
6,209,430	Desmarais et al	4-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 42-62 and 83-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klemm et al (US Patent 4,191,743) in view of Desmarais et al (US Patent 6,209,430).

Regarding claim 42, Klemm discloses a method for making a wound dressing including at least one piece of sheet-form melamine foam c or d having a thickness of 0.5-10 mm (foam c) or 0.3-2 mm (foam d) which is sufficiently small to exhibit flexibility and no flexural elasticity (see pending specification at p.6, line 21 to p.7, line 10; Klemm et col. 3, line 60 to col. 5, line 39).

However, Klemm does not disclose tangential cutting as claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Desmarais et al.

Desmarais discloses a method for continuously producing a web from a block of material. As shown in Figs. 1-3, blade mechanism 7 is positioned adjacent to foam

Art Unit: 1791

block 1. This blade tangentially cuts the block 1 into a continuous web or strip 11 in the manner claimed by the applicant. It would have been obvious to one having ordinary skill in the art to employ the tangential cutting technique disclosed by Desmarais to produce the sheet-form melamine foam materials of Klemm in order to achieve predictable results.

Further, it is the examiner's position that the steps of deriving at least one piece of sheet-form melamine foam from the strip and forming an article from the at least one piece of sheet-form melamine foam, the article having a total thickness, are inherent steps in the above combination of Klemm in view of Desmarais.

Regarding claims 43, 46-47, and 51, the article has two opposing main free faces with one of the main free faces being of melamine (i.e., layer c or d) (scouring free face). There is provided reinforcing layer a, or a with another melamine layer (claim 47), or another melamine layer or layers (claim 47) as another face, or layer b. Claim 48, reinforcing layer a is made of a material different from melamine foam. Layer a is rubber which has a tear strength higher than that of melamine foam. Claim 50 and also claim 51, the article has at least one reinforcing layer d or c made for an absorbent material of melamine. Claim 52, Figure 5 demonstrates opposing main free faces which are melamine foam (scouring free faces) layers d and d having reinforcing layer c therebetween.

Regarding Claims 56-57, Klemm teaches layer b is a mesh of treads which are a synthetic resin or other material but does not teach layer b of a mesh of the materials claimed. Layer b of Klemm holds the antibiotic layer and the materials claimed are

Art Unit: 1791

conventional in the wound dressing art are materials for such a layer, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Klemm using these materials in stead because it is obvious to replace one mesh material with another art recognized alternative mesh material.

Regarding claims 44-45, in Klemm in view of Desmarais foam c from the strip is 0.5-10 mm and foam d from the strip of 0.3-2 mm which overlap the claimed range of less than or equal to 1 mm and which teach approximately 0.8 mm.

Regarding claim 49, the article includes at least one main free face which is an absorbent free face formed in part by at least one piece of absorbent material in that free layers c and d are melamine.

Regarding claims 53-54, the article has a total thickness of less than 5 mm (see thickness values in column 4 for layers a, b, c, and d). Claim 57, Klemm teaches that at least a portion of the thickness of the article is impregnated with a softened fluid composition before being packaged (c 4, L 39-46) in that a layer b of mesh is impregnated with a softened material during formation of the article, i.e., pre packaging (c 6, L 21-29).

Regarding claims 58-59, the composition is a bactericidal disinfectant antiseptic (c 1, L 55, to c 4, L 8).

Regarding claim 60, a solid composition capable of dissolving in the presence of a liquid so as to be able to release an active agent is incorporated into at least a portion of the thickness of the article (c 3, L 31-41).

Regarding claim 61, the article is wrapped (c 4, L 39-46).

Art Unit: 1791

Regarding claim 62, layers a, b, c, and/or d are laminated by means of an intermediate heat-activable adhesive film in outer surface of layers a, c, and d are melted to bond thus acting a heat-activable adhesive film.

Regarding claims 83, 86 and 88, Desmarais shows strip 11 being peeled from block 1.

Regarding claims 84, Desmarais shows rotating the foam block 1 during the cutting step.

Regarding claims 85 and 87, Desmarais discloses winding strip 11 on a roll (see col. 4, lines 66-67).

Regarding claim 89, Desmarais discloses rotating foam block 1 while tangentially cutting, withdrawing strip 11 as it is peeled and winding strip 11 on a roll (see col. 4, lines 66-67). It is the examiner's position that synchronizing the rolls is well known and conventional in the art and would have been obvious to employ in Desmarais in order to more easily collect the strip material 11.

(10) Response to Argument

Applicant's arguments filed June 6, 2008 have been fully considered but they are not persuasive.

Applicant argues melamine foam (disclosed by KLEMM) and HIPE foams (disclosed by DESMARAIS) are not recognized equivalents. The examiner does not agree. First, it is noted that the primary reference of KLEMM teaches a melamine foam. The examiner is not substituting HIPE foam, which is shown by the secondary reference

Art Unit: 1791

of KLEMM, for melamine foam taught by the primary reference of DESMARAIS. The examiner is merely citing the secondary reference of DESMARAIS to show tangential cutting as claimed by the applicant, not a substitution of materials. Second, DESMARAIS discloses a variety of materials which can be cut using the tangential cutting method. These materials include any material that may be blade cut and which has sufficient structural integrity to be processed as a web or sheet such as polymeric foam materials, non-foamed polymers, wood or cheese. See col. 4, lines 16-27 of DESMARAIS. Based on this disclosure of DESMARAIS, the examiner believes one having ordinary skill in the art would have a reasonable expectation of success in using the tangential cutting method disclosed by DESMARAIS in order to cut the melamine foam material disclosed by KLEMM.

Applicant argues melamine foam blocks and HIPE foam have different physical characteristics. Again, as stated above, the examiner is not substituting the HIPE foam of DESMARAIS for the melamine foam of KLEMM. The melamine foam, as recited in applicant's claims, is taught by the primary reference of KLEMM. In addition, DESMARAIS discloses a variety of materials which can be cut using the tangential cutting method of DESMARAIS. Therefore applicant's argument is believed to be irrelevant in this instance.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 1791

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/James Sells/

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